

Regular Session, 2009

ACT No. 35

HOUSE BILL NO. 432

BY REPRESENTATIVE BURFORD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 40:1300.51(3), 1300.52(D)(1), and 1300.53(C)(1) and to enact
3 R.S. 40:1300.51(2)(n), relative to criminal history checks on nonlicensed persons and
4 licensed ambulance personnel; to amend the definition of employer to include
5 pediatric day health care facilities; to make all crimes reportable in background
6 checks; to amend the provisions for waiver; to provide that certain convictions
7 cannot be waived by an employer; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1300.51(3), 1300.52(D)(1), and 1300.53(C)(1) are hereby
10 amended and reenacted and R.S. 40:1300.51(2)(n) is hereby enacted to read as follows:

11 §1300.51. Definitions

12 For the purposes of this Part:

13 * * *

14 (2) "Employer" means any of the following facilities, agencies, providers,
15 or programs:

16 * * *

17 (n) A pediatric day health care facility, as defined in R.S. 40:2193.1(B)(5).

18 (3) "Nonlicensed person" means any person who provides for compensation
19 nursing care or other health-related services to residents in a nursing facility,
20 intermediate care facility for people with developmental disabilities, adult residential
21 care facility, pediatric day health care facility, or home- and community-based
22 service provider and who is not a licensed health provider. "Nonlicensed person"
23 also means any person who provides such services to individuals in their own homes
24 as an employee or contract provider of a home health agency, hospice, or home- and

1 community-based service provider. "Nonlicensed person" also means any person
2 employed as a driver by or who contracts as a driver with a nonemergency, non-
3 ambulance transportation facility or entity.

4 * * *

5 §1300.52. Employment of nonlicensed persons and licensed ambulance personnel;
6 mandatory criminal history and security checks; temporary employment;
7 notice to applicants

8 * * *

9 D.(1) The office or authorized agency shall ~~not~~ provide to the employer ~~the~~
10 ~~criminal history records of a person being investigated unless the records relate to:~~
11 only such information as is necessary to specify whether or not that person has been
12 arrested for or convicted of or pled nolo contendere to any crime or crimes, the crime
13 or crimes for which he has been arrested or convicted or to which he has pled nolo
14 contendere, and the date or dates on which the crime or crimes occurred.

15 (a) ~~Any crime of violence as enumerated in R.S. 14:2(B) and those crimes~~
16 ~~defined in R.S. 14:34.7, R.S. 14:35, R.S. 14:36, R.S. 14:37.1, R.S. 14:37.4, R.S.~~
17 ~~14:38, R.S. 14:41, R.S. 14:43.3, R.S. 14:43.5, R.S. 14:44.2, R.S. 14:52 through R.S.~~
18 ~~14:54.4, R.S. 14:55, R.S. 14:57, R.S. 14:60 through R.S. 14:62.3, R.S. 14:64.3, R.S.~~
19 ~~14:64.4, R.S. 14:67, R.S. 14:67.1 through R.S. 14:67.16, R.S. 14:67.20 through R.S.~~
20 ~~14:67.22, R.S. 14:69 through 14:70.2, R.S. 14:70.4 and 14:70.5, R.S. 14:71.1, R.S.~~
21 ~~14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S.~~
22 ~~14:91.13, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3 through R.S. 14:93.5,~~
23 ~~R.S. 14:101.1, R.S. 14:102.1, R.S. 14:106, R.S. 14:107.2, R.S. 14:128.1 and R.S.~~
24 ~~14:128.2, R.S. 14:282, R.S. 14:286, and distribution or possession with the intent to~~
25 ~~distribute controlled dangerous substances as listed in Schedules I through V of the~~
26 ~~Uniform Controlled Dangerous Substances Act.~~

27 (b) ~~An attempt or conspiracy to commit any of the offenses listed in~~
28 ~~Subparagraph (1)(a) of this Subsection.~~

29 * * *

§1300.53. Refusal to hire or contract; termination of employment; exemption;
appeal procedure; waiver

* * *

C.(1) The employer may waive the provisions of this Part, unless the licensed ambulance personnel or nonlicensed person has been convicted of any crime as enumerated by R.S. 14:31, 34, 34.7, 35.2, 37, 37.1, 37.4, 42.1, 43.1, 44.2, 64, 80, 81.2, 93, 93.3, 93.4, or 93.5. If the licensed ambulance personnel or nonlicensed person has been convicted of any crime as enumerated by R.S. 14:31, 34, 34.7, 35.2, 37, 37.1, 37.4, 42.1, 43.1, 44.2, 64, 80, 81.2, 93, 93.3, 93.4, or 93.5, then the employer shall not hire or contract with such person and shall not grant a waiver to such person.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____